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EXAMINER

AVELLINO, JOSEPH E

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/684,706

Applicant(s)

GELVIN ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-111 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/25/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-111 are presented for examination. Claims 1, 63, 80, and 83-85 being independent. The Office acknowledges the addition of claims 86-111.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 26, 2006 has been entered.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

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1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-62 of Patent no. 7,020,701 contains every element of claims 1-111 of the instant application and as such anticipates claims 1-111 of the instant application.

Claims 1-68 of Patent no. 6,826,607 contains every element of claims 1-111 of the instant application and as such anticipates claims 1-111 of the instant application.

Claims 1-61 of Patent no. 6,832,251 contains every element of claims 1-111 of the instant application and as such anticipates claims 1-111 of the instant application.

5. "A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)." ELI LILLY AND

COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the
Federal Court, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Allowable Subject Matter

6. Claims 86-89 when combined, and claim 93 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 11-12, 14, 16, 18, 21, 28-29, 32, 33, 36, 42-44, 46-47, 50-53, 56-61, 80-83, 92, and 94-111 are rejected under 35 U.S.C. 102(e) as being anticipated by Clare et al. (USPN 6,414,955) (hereinafter Clare).

8. Referring to claim 1, Clare discloses a sensor network comprising a plurality of network elements including:

at least one node (Figures 1-10) coupled among a monitored environment (col. 6, lines 10-30) and at least one client computer (the Office takes the term "client computer"

~~to be broadly construed as “any node which is accessible by a user of the system”~~ (col. 14, lines 12-34),

wherein functions of the at least one node are remotely controllable using the at least one client computer (col. 14-lines 12-34; col. 15, lines 13-16),

wherein the at least one node provides, after the plurality of network elements are self-assembled into a multi-cluster network (i.e. “after the communicating nodes and the interfering nodes have been identified”) node information including node resource cost (i.e. network self-organization and routing) and message priority (i.e. “characteristics and traffic”) to the plurality of network elements (col. 4, lines 56-67; col. 15, lines 10-24 and 43-56),

wherein the data processing is distributed through the sensor network including at least one of the elements other than the client computer (i.e. “the new node is informed of the local network traffic, routing, and communication schedule”) in response to the node information (col. 4, line 58 to col. 5, line 2; col. 18, lines 35-64).

9. Referring to claim 2, Clare discloses the at least one node includes sensing, processing, communications, and storage devices supporting a plurality of processing and protocol layers (col. 19, line 29 to col. 21, line 41).

10. Referring to claim 3, Clare discloses the sensor network supports wireless communications (e.g. abstract).

11. Referring to claim 11, Clare discloses at least one local user is coupled to the at least one node (col. 14, lines 12-34).

12. Referring to claim 12, Clare discloses at least one redundant information pathway is established among the plurality of network elements (Figure 3).

13. Referring to claim 14, Clare discloses the plurality of node types includes at least one node of a first type (user node) and at least one node of a second type (sensor node) (Figure 14; col. 14, lines 12-34);

14. Referring to claim 16, Clare discloses the plurality of network elements automatically organize in response to the node information, wherein the automatic organizing comprises automatically controlling data transfer, processing and storage within the network (col. 6, line 35 to col. 18, line 1).

15. Referring to claim 18, Clare discloses the data processing is controlled using at least one processing hierarchy, controlling communications among the plurality of network elements (col. 15, lines 10-24).

16. Referring to claim 21, Clare discloses the functions of the at least one node include data acquisition (col. 15, lines 10-15).

17. Referring to claim 28, Clare discloses controlling data processing and data transmission in response to a decision probability of a detected event (col. 15, lines 10-15).

18. Referring to claim 29, Clare discloses the at least one node includes at least one seismic sensor (col. 19, lines 30-43).

19. Referring to claim 32, Clare discloses the plurality of network elements are self assembling, wherein search and acquisition modes of the node search for participating elements (e.g. abstract).

20. Referring to claim 33, Clare discloses the plurality of network elements are self-assembled into a multi-cluster network (i.e. defining neighbor nodes such as communicating neighbors and interfering neighbors) (col. 6, lines 35-62).

21. Referring to claim 36, Clare discloses synchronism is established among the plurality of network elements using the assembly packets

22. Referring to claim 42, Clare discloses data is collected by the node and at least one operation is performed on the data including energy detection (col. 20, lines 15-56).

23. Referring to claim 43, wherein the routing, processing, storing and fusing are performed in response to at least one result of the energy detection (col. 20, lines 15-56).

24. Referring to claim 44, Clare discloses the routing comprises selecting a data type for routing, selecting one of the plurality of elements to route the data, selecting a route, and routing the data (i.e. a sensor device transmitting data to a user node for display) (col. 18, lines 35-65).

25. Referring to claim 46, Clare discloses the processing comprises selecting at least one data type for processing, selecting at least one processing type, selecting at least one of the plurality of network elements to perform the selected at least one processing type, and transferring the selected at least one data type to the selected at least one of the plurality of network elements using at least one route through the sensor network (col. 18, lines 35-64).

26. Referring to claim 47, Clare discloses the selection of at least one processing type comprises determining at least one probability (i.e. decision-making) associated with a detected event (monitored environment settings) and selecting at least one processing type in response to the at least one probability (i.e. if the decision is true, do something different than if the decision is false) (Figure 15; col. 18, lines 35-64).

27. - Referring to claim 52, Clare discloses the at least one node includes a bi-static - sensor and a generator for producing at least one energy beam that is radiated from the plurality of nodes, wherein the at least one energy beam comprises a combined probe beam and a signal code for beam intensity control and propagation management, wherein the at least one energy beam is modulated in time to provide an identifying code corresponding to a source node, wherein the at least one energy beam is acoustic (col. 22, lines 47 to 67).

28. Referring to claim 53, Clare discloses determining a position of the at least one node (col. 22, lines 35-67).

29. Referring to claim 56, Clare discloses using a GPS device providing location and time information (col. 7, lines 58-67).

30. Referring to claim 57, Clare discloses the node has a communication modem (i.e. a wireless antenna) (Figure 14 and related portions of the disclosure).

31. Referring to claim 58, Clare discloses communications uses multihop communications (Figures 1-10).

32. Referring to claim 59, Clare discloses the monitored environment is an outdoor area (col. 7, lines 58-67).

33. Referring to claim 60, Clare discloses supporting short range and long range communications (Figure 1).

34. Referring to claim 61, Clare discloses the node is contained in a sealed and waterproof system (Figure 14, and related portions of the disclosure).

35. Claims 50, 51, 80-83, 92, 94-111 are rejected for similar reasons as stated above. Furthermore Clare discloses that a client node can be construed as the “at least one node”, wherein it is inherent that there would be a plurality of APIs able to control communication devices, otherwise the device would be unable to communicate via the network.

Claim Rejections - 35 USC § 103

36. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 30, 45 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Official Notice.

37. Referring to claim 30, Clare discloses the invention substantively as described in claim 29. Clare does not specifically state the one sensor is external to the one node,

however "Official Notice" is taken that both the concept and advantages of providing for an external sensor to the node is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include an external sensor to provide easy accessibility to the sensor by a repairman, facilitating the ease of future upgrades or replacements.

38. Referring to claim 45, Clare discloses the invention substantively as described in claim 44. Clare does not specifically disclose transmitting data in the message as a code in a codebook. "Official Notice" is taken that both the concepts and advantages of providing for transmitting codes in messages is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include transmitting codes from a codebook in messages to the system of Clare to conserve bandwidth in a low-power system, thereby conserving available power for the network.

39. Referring to claim 55, Clare discloses the invention substantively as described in claim 1. Clare does not specifically state protecting communications among the elements using a public key security protocol. "Official Notice" is taken that both the concept and advantages of providing for public key encryption in wireless devices is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include public key encryption to the system of Clare to provide a basic level of security, thereby reducing the occurrences of eavesdropping by hackers and malcontents.

Claims 4-10, 13, 17, 19, 25, 38-41, 48-49, 62-79, 84-85 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Myer et al. (USPN 6,615,088) (hereinafter Myer).

40. Referring to claim 4, Clare discloses the invention substantively as described in claim 1. Clare does not specifically disclose the network includes a gateway, a server, and at least one hybrid wired and wireless network. Myer discloses another sensor network which includes at least one gateway 12, at least one server 25, and at least one hybrid wireless and wired network (Figure 1; col. 2, lines 52-67). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

41. Referring to claims 5 and 6, Clare discloses the invention substantively as described in claim 1. Clare does not disclose the at least one gateway performs management of communications with at least one remote user. Myer discloses the at least one gateway node (control network portal 12) performs management of communications with at least one remote user (col. 4, lines 28-50). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

42. Referring to claim 8, Clare discloses the invention substantively as described in claim 1. Clare does not specifically disclose the network is the Internet. Myer discloses the network is the Internet 22, (Figure 1). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

43. Referring to claim 9, Clare discloses the invention substantively as described in claim 1. Clare does not disclose providing remote accessibility using WWW-based tools to data, code, management, and security functions. Myer discloses providing remote accessibility using WWW-based tools to data, code, management, and security functions (Figure 2). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

44. Referring to claim 10, Clare discloses the invention substantively as described in claim 1. Clare does not specifically disclose that the gateway is coupled to the network elements, wherein the elements include repeaters and interrogators. Meyer discloses coupling a gateway with a plurality of network elements (Figure 1) and it is well known that repeaters and interrogators exist in the network (i.e. repeaters forward signals over long distances >100m which is necessary for the Ethernet protocol). It would be

obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

45. Referring to claim 13, Clare discloses the invention substantively as described in claim 1. Clare does not disclose supporting a plurality of levels of synchronization among different subsets of the plurality of network elements. Myer discloses that the master controller 36 can periodically poll each appliance 37-39 in order to obtain the status of the device (col. 3, lines 15-22). Furthermore, it is well known that polling periods can be user defined to utilize slow status-changing devices (light switches are slow to change status compared to acoustic sensors in a room, thereby requiring a different level of synchronization for the light switch than for the acoustic sensor). By this rationale it would have been obvious to one of ordinary skill in the art to modify the teachings of Clare and Myer to provide for multiple levels of synchronization to reduce wasted bandwidth on status updates for devices which have a slow status change interval.

46. Referring to claims 17 and 84, Clare discloses the invention substantively as described in claim 1. Clare does not disclose supporting a plurality of levels of synchronization among different subsets of the plurality of network elements. Myer discloses that the master controller 36 can periodically poll each appliance 37-39 in order to obtain the status of the device (col. 3, lines 15-22). Furthermore, it is well

known that polling periods can be user-defined to utilize slow status-changing devices (light switches are slow to change status compared to acoustic sensors in a room, thereby requiring a different level of synchronization for the light switch than for the acoustic sensor). By this rationale it would have been obvious to one of ordinary skill in the art to modify the teachings of Clare and Myer to provide for multiple levels of synchronization to reduce wasted bandwidth on status updates for devices which have a slow status change interval.

47. Referring to claims 19, 48, 49, and 85, Clare discloses the invention substantively as described in claim 18. Clare does not specifically disclose aggregating data processed in a plurality of nodes for further processing by other nodes. Myer discloses polling devices by the master controller 36 in order to monitor the devices status, which can then be sent to a user interface device for display (the device status reports collected by the master controller 36 must inherently be processed by the client GUI device, or other node, in order for it to be displayable to the user) (col. 3, lines 15-25). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

48. Referring to claim 38, Clare discloses the invention substantively as described in claim 1. Clare does not disclose comprising at least one database separate from the plurality of network elements. Myer discloses comprising at least one database

separate from the plurality of network elements (col. 3, lines 45-50). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Myer with Clare to facilitate device configuration in a network as supported by Myer (col. 1, lines 26-30).

49. Referring to claim 39, Clare in view of Myer disclose the invention substantively as described in claim 38. Clare in view of Myer do not specifically disclose that cooperative sensing uses information in the database to provide non-local event correlation. However, it is well known that multiple sensors are used to monitor multiple characteristics of a system (two sensors in a CPU measuring voltage and thermal temperature to ensure that a chip is operating efficiently). "Official Notice" is taken that both the concepts and advantages of providing for cooperative sensing is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include cooperative sensing to the system of Clare and Myer to allow numerous physical characteristics to be monitored simultaneously to provide a more detailed description of the monitored area.

50. Referring to claim 40, Clare in view of Myer discloses the invention substantively as described in claim 29. Claire further discloses data-driven alerting methods that recognize conditions on user-defined data relationships (i.e. user profiles) including coincidence in signal arrival, node power status, and network communication status (col. 18, lines 35-64).

51. Referring to claim 41, Clare in view of Myer discloses the invention substantively as described in claim 29. Although neither Clare nor Myer specifically state implementing the database in a small footprint database and in a SQL database systems at a level of at least one server, it is well known that these features exist and would have been obvious to one of ordinary skill in the art to incorporate a small footprint database to the invention of Clare and Myer to provide the productivity and reliability that a SQL database allows, while still keeping information search and retrieval times to a minimum.

52. Claims 7, 25, 62-79, 90 are rejected for similar reasons as stated above. Furthermore Claim 62 recites limitations which are well known and expected in the art (the concept of reusing code is the basis for object-oriented programming, that code may be imported and reused in different situations) and would be considered obvious to one of ordinary skill in the art. Claims 63-79 recite limitations previously discussed and are further discussed in view of the other art below.

Claims 15, 54, 101 and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Davis et al. (USPN 5,742,829) (hereinafter Davis).

53. Clare discloses the invention substantively as described in claim 1. Clare does not disclose distributing code and data anticipated for future use through the sensor

network using low priority messages, wherein the code and the data are downloadable from a storage device. Davis discloses a network wherein distributing code and data anticipated for future use through the sensor network using low priority messages (i.e. in the background), wherein the code and the data are downloadable from a storage device (it is inherent that the code/data are downloaded from a storage device) (col. 6, lines 27-65). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Davis with Clare to facilitate the installation of software on heterogeneous clients on the distributed network, thereby reducing installation costs and reducing downtime as supported by Davis (col. 2, lines 10-15).

54. Claims 101-102 are rejected for similar reasons as stated above.

Claims 19, 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Makansi et al. (US 2002/0154631) (hereinafter Makansi).

55. Clare discloses the invention substantively as described in claim 1. Furthermore it is an inherent feature of Clare to aggregate the data to be transmitted to a user to conserve energy by reducing the amount of packets and saving bandwidth. Clare does not disclose the message packets include decoy packets wherein information to be transferred is impressed on random message packets to provide communication

privacy. Makansi discloses message packets include decoy packets wherein information to be transferred is impressed on random message packets to provide communication privacy on a network (e.g. abstract). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Makansi with Clare to provide messages to be transmitted in ways such that potential adversaries are given access to a relatively little amount of information as supported by Makansi (p. 1 ¶ 8).

56. Claims 91 is rejected for similar reasons as stated above.

Claims 9, 22-24, 27, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clare in view of Humpleman et al. (USPN 6,546,419) (hereinafter Humpleman).

57. Referring to claim 9, Clare discloses the invention substantively as described in claim 1. Clare does not disclose having the node of the first type containing a preprocessor with a state machine, an API and at least one sensor. Humpleman discloses a home sensor network wherein a first node 14 of a first type (Device A) contains a preprocessor with a state machine (it is inherent that a standard microprocessor emulates the effects of a state machine during its pipelining of instructions, fetch, decode, execute, store, etc.), an API (INTERFACE-A.xml), and at least one sensor (h/w) (e.g. abstract; Figure 16; col. 22, lines 52-58). It would be

obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Clare with Humpleman to be able to control a plurality of diverse devices having different capabilities to communicate in order to accomplish tasks or to provide a service as supported by Humpleman (col. 2, lines 38-45).

58. Referring to claim 22, Clare discloses the invention substantively as described in claim 1. Clare does not disclose having the node of the second type including at least one preprocessor coupled to at least one processor and a plurality of API's, wherein the plurality of API's are coupled to control at least one device. Humpleman discloses a home sensor network wherein the node 14 of the second type (device B), contains at least one preprocessor coupled to at least one processor (it is well known that a server computer has multiple microprocessors embedded within the server which are either directly or indirectly coupled together), a plurality of API's (INTERFACE-A.XML and INTERFACE-B.XML), wherein the plurality of API's are coupled to control at least one sensor device (i.e. smoke detectors) (e.g. abstract; Figure 16; col. 22, lines 52-58). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Clare with Humpleman to be able to control a plurality of diverse devices having different capabilities to communicate in order to accomplish tasks or to provide a service as supported by Humpleman (col. 2, lines 38-45).

59. Referring to claim 23, Clare discloses the invention substantively as described in claim 1. Clare does not disclose layering the plurality of API's. Humpleman discloses

layering the plurality of API's in the device (Figure 19, reference characters 72-92). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Clare with Humpleman to be able to control a plurality of diverse devices having different capabilities to communicate in order to accomplish tasks or to provide a service as supported by Humpleman (col. 2, lines 38-45).

60. Referring to claim 26, Clare discloses the preprocessor (ADC) performs data acquisition, and the processor (DSP) performs signal identification (col. 18, lines 35-64).

61. Referring to claim 24, Clare discloses the invention substantively as described in claim 1. Clare further discloses enabling distributed resource management by providing network resource information and message priority information to the plurality of network elements (col. 14, lines 12-34; col. 15, lines 10-25). Clare does not specifically disclose enabling distributed resource management through the plurality of API's. However Humpleman discloses using the API's to enable distributed resource management (i.e. enabling services to be used via the API's) (Figures 15-19 and pertinent portions of the disclosure). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Clare with Humpleman to be able to control a plurality of diverse devices having different capabilities to communicate in order to accomplish tasks or to provide a service as supported by Humpleman (col. 2, lines 38-45).

62. Referring to claim 27, Clare discloses the processor performs reconfiguration and signal identification (e.g. abstract).

63. Referring to claim 37, Clare discloses the invention substantively as described in claim 1. Clare does not disclose managing the plurality of network elements as a distributed database using a distributed resource management protocol, wherein the plurality of network elements are reused among different applications, wherein the network elements are used in multiple classes of applications. Humpleman discloses managing the plurality of network elements as a distributed database using a distributed resource management protocol, wherein the plurality of network elements are reused among different applications, wherein the network elements are used in multiple classes of applications (the servers and clients can reside on the same node and execute both client and server applications) (col. 6, lines 18-34). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Clare with Humpleman to be able to control a plurality of diverse devices having different capabilities to communicate in order to accomplish tasks or to provide a service as supported by Humpleman (col. 2, lines 38-45).

Response to Arguments

64. Applicant's arguments filed June 9, 2006 have been fully considered but they are not persuasive.

65. In the remarks, Applicant argues, in substance, that (1) Clare does not disclose distributing storage and processing for a node other than the client computer, (2) Clare does not disclose what happens after the nodes are self-assembled into a network, (3) Myer does not teach a plurality of levels of synchronization, and (4) Applicant challenges Examiner's assertion of Official Notice.

66. As to point (1), As Applicant has kindly pointed out, the claim does not include that the data processing is directed to the collected data and, as such, Applicant would appreciate that the data processing of *any* data in the network can clearly be shown in the cited passages (col. 4, lines 58-67) which shows the nodes distributing the processing, routing, and communication schedules. By this rationale, the rejection is maintained.

67. As to point (2), Applicant's attention is directed to cols. 4 and 5, which clearly shows that "a node is a member of a network, and can issue invitations to other new nodes" (col. 5, lines 1-10). Once that first node is a member of the network, this time can be construed as "after the elements are self-assembled into a multi-cluster network". After this point in time, the node can issue another invitation to another node to join the network. This does not mean that the nodes are not assembled into a network, rather another node is joining the network. By this rationale, the rejection is maintained.

68. As to point (3), Applicant is incorrect. Applicant has not defined what is meant by "levels of synchronization", and as such intends broad interpretation as is known in the art. As such, the differing polling periods can be construed as "levels of synchronization", since the devices are polled at varying periods, thereby the devices are synchronized at varying degrees. This clearly teaches the "levels of synchronization" as claimed. By this rationale, the rejection is maintained.

69. As to point (4) Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. **A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response.**

Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Applicant has lost the right to challenge this assertion since the challenge was not requested in the next action, merely reserving the right to later does not allow an Applicant the ability to request it at a later date. As shown in MPEP 2144.03 and the cited case law, the Office's position is clear, and the features of the affected claims are now considered admitted prior art of record. By this rationale, the rejection is maintained.

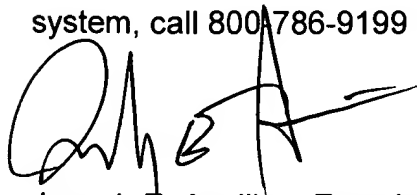
Conclusion

70. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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A handwritten signature in black ink, appearing to read 'Joe Avellino', with a stylized flourish at the end.

Joseph E. Avellino, Examiner
October 25, 2006